# THE WILL TO END WAR

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# THE WILL TO END WAR*

By ARTHUR DEERIN CALL

## SOLACES

AT A TIME when men everywhere are depressed and in despair because of the losses and sorrows of an unprecedented war, a war that still hangs on from the Baltic to the Caucasus, through the Levant and beyond, it has been comforting to me to search out some of the things worth while which, it would seem, the war has, happily, left to us. It is a solace to feel that our hope in public education survives; that we have faith that we may yet attain unto truth; that the dignity of human character remains, and that our zeal for self-culture continues. It is heartening to find that men still recognize the social importance of individual behavior, and that they demand veracity, as of old. The human struggle for a moral ideal goes on. The tasks of the day are easier because the aspirations of democracy within the State are still discernible, and because the social purpose is seen to be back of the great motives of men. The war has taken much, but it has left these. And, more comforting than any one of them, in no small measure because of them, there remains also the will to end war. Indeed, the war itself has vitalized this purpose, so con-

*This is article ten of a series entitled "*The War Has Not Destroyed.*" The titles of the articles, already printed in the *Advocate of Peace*, are: The War Has Not Destroyed—I. Our Hope in Public Education; II. Our Belief in the Attainability of Truth; III. The Dignity of Human Character; IV. The Zeal for Self-Culture; V. The Social Importance of Individual Behavior; VI. The Demand for Veracity; VII. The Human Struggle for a Moral Ideal; VIII. The Aspiration for Democracy Within the State; IX. The Social Purpose; X. The Will to End War.

spicuously a feature of the nineteenth century, more widely and convincingly.

Men have always felt the paradox of Christian civilization to be its wars; the amazing wonder of human history to be its incongruous spear-stickings and gruesome blood-lettings.

Before this war a few of us were calling attention to the distressing cost of it all in the terms of wealth; to the far more unhappy costs because of the perversion of judgments. We saw even in those threatening days the slow, hopeful evolution of a more rational interpretation of international behavior, the gradually increasing substitution of judicial and other peaceful methods of settling international disputes. We argued that such things made for an inevitable improvement in an intolerable world situation; that, indeed, they meant the ultimate doom of international wars. We aimed to make our arguments against war more than mere emotional, personal, and subjective ravings of "well-meaning pacifists." We thought them more than simply transcendental fulminations of theorists and dogmatists. We believed them more valuable than vain ex-cathedra utterances wholly lacking in proof. We assumed our arguments to be capable of scientific demonstration. We had long known that it is difficult to dogmatize upon the causes of war, and, similarly, upon the prospects of ending war. We were always ready to grant that the world presents no problem so intricate as the problem of substituting reason for force in the settlement of international disputes. But, behind the will to end war, we sought out the arguments founded in logic and honest research. We saw that, as it is possible to demonstrate scientifically that there has been a successful group control of individual crimes of violence, so it should be possible to demonstrate scientifically that there is an evolution in the law to end crimes

of international violence. The individual highwayman leads a precarious and a hunted career. The same is true of the nation highwayman. Objective inquiry shows that the fighting instinct among men has been curbed and altered by law. The same kind of inquiry tells us that the war instinct of nations must accept the same fate, for otherwise, with our highly scientific means of destruction, the nations cannot long endure.

Yet, as we feared, a war came, a devastating war. But the supreme lesson of all that now is that we were right then; and that now, if civilization is to survive, the nations must again go collectively about the job of ending, if possible, once for all, this paradox, this amazing scourge, this incongruous orgy, this indescribable horror of war. The war has been a sufficing demonstration of the truth we aimed to teach then. Hence this will to end war is, partly because of the war, more apparent and outspoken among men everywhere. Thus there *is* balm in Gilead; there *is* a physician there.

## THE BENUMBING COSTS OF IT

### In Money

The reasons for this will to end war are not difficult to find. For example, the money cost of it all has been brought home to us anew, and the will to stop it strengthened. And that cost is bewildering as it is impressive. The national debts of the world have increased since 1913 from $43,200,931,000 to $265,305,022,000, and they are still mounting. The per capita debt of the United States has increased during the same period from $11 to $225; of Great Britain from $78 to $850; of France, from $160 to $1,150. The building of the Panama Canal cost us approximately $400,000,000. By 1918 the direct money cost of the war had risen to $10,000,000 an hour—a Panama Canal every one and

two-thirds days. The total direct expense during the period of the war was equivalent to 465 Panama canals.

If to the direct costs we add the no less tangible indirect money costs, we have the amazing equivalent of at least 930 Panama canals. And the indirect costs are most distressing. The 13,000,000 dead boys mean at least 13,000,000 others prematurely dead because of lowered vitality—in fact, of broken hearts. But just those 13,000,000 dead boys, representing a number considerably more than twice the total deaths due to all the wars of the nineteenth century, including the twenty-five years of the Napoleonic struggles, mean 13,000,000 less among our best producers. Prof. Ernest L. Bogart finds, and he has been confirmed by such statisticians as O. P. Austin, the direct and indirect money costs of the great World War to have been $337,946,179,657. But that was two years ago. The costs are still accumulating, let us repeat. As Professor Bogart adds:

"The figures presented in this summary are both incomprehensible and appalling; yet even these do not take into account the effect of the war on life, human vitality, economic well being, ethics, morality, or other phases of human relationships and activities which have been disorganized and injured."

Since a billion is such an incomprehensible number, the staggering financial situation of the world may be more nearly realized if the case be put thus: The total debts of the nations are $265,000,000,000, which means $221,000,000,000 more than in 1913. The annual interest on these debts is over $9,000,000,000, five times greater than before the war. Now, according to the latest figures, the number of men, women, and children in all the world is only 1,692,604,366. The total number of seconds which have passed during the 1920 years of our Christian era is only 1,078,272,000. And yet these inconceivable expenses do not include the money

value of crippled soldiers, or of invalided and devitalized armies and civilian populations. The property loss in France, $13,000,000,000, is not included. The figures do not tell us of the destruction of productive machinery, the reduced production, the lower birth-rate, and the accelerated race deterioration around the world.

It is said that the fear of costs does not deter nations from going to war. I believe it does. Whether it does or not, it ought. In 1913, our navy bill was $150,000,000. The amount appropriated for the navy by the 66th Congress is $433,279,574. Our army bill for 1915 was $111,000,000. Our present army bill is $392,558,365. Our present expenditures for the army, navy, fortifications, Military Academy, and pensions, as provided by the last Congress, is $900,265,847. Interest on our public debt for the ensuing fiscal year, a war expense, will be $980,000,000; and if we add to this $260,000,000 for the sinking fund, we discover that our yearly expense for our public debt alone is more than our total annual governmental expenditure prior to the war. By the most conservative figures it appears that for every dollar spent by our government, 93 cents is because of war. When we remind ourselves of those other and relatively higher war expenditures in Europe and elsewhere; when we recall that while the world's net annual war expense in 1913 was $4,000,000,000, that is relatively but a paltry sum now indeed; when we think of what all this means in the way of a continuing expense through the century that lies before, and try to compute it in terms of the unimaginable billions, we have to accept the fact that all of our efforts to apply our theories of social organization are to be tragically retarded. The better homes, the more general education of our people, the better health and the reduction of the death rate, the new machinery, the new artisans, the new roads and river channels, the forest conservation, the development

of water-power, of agriculture, of irrigation, of the arts and sciences, all must feel, and that for generations to come, the handicap of our enormous expenditures because of war.

As Franklin K. Lane, while Secretary of the Interior, replied when asked once what he would do if he had the war money at his disposal to expend upon constructive work, he would take the carnotite ores of the West, reduce them to radium, and eliminate one-half the cancer. He would go scientifically into the business of finding out what is in our mountains. He would search out the deposits of potash in kelp and valley. He would eliminate the fly and mosquito, and build up a better national health. He said:

> "So is it not plain that if the world would spend upon man-making rather than upon man-killing, wonderful things might be accomplished? . . . The curse of war and preparation for war is not that men die, but that they do not live to do their share towards the solution of the problems of social and commercial life. . . . Such a people as ours, encouraged by a century of peace, would develop a civilization that not only materially, but artistically would surpass anything which the world has ever seen."

Common sense leads us all to wish that the expense of collective killing might cease. As Mr. Winston Spencer Churchill, English First Lord of the Admiralty before the war, speaking at that time on the expenses of the killing system, remarked in substance, "What a wasteful, purposeless, futile folly it all is; what a stupid, unnatural chapter in the history of human endeavor."

### In Ways More Serious Than Money

And yet the least of the influences leading to our will to end war is that the business costs money. Belgium did not stop to count the cost when she was overrun by Germany; neither did France. England's decision to enter with her standing army of only 100,000 upon a

continental land war seemed well-nigh suicidal. When once it was clear to the United States that the only way to end the war was to defeat the central powers of Europe, we joined in the job, regardless of cost. It was so with all the belligerents.

But war means costs of a more serious nature—costs in erroneous thinking and twisted judgments. For example, there are honest and intelligent men who believe that war is a divine institution and as such it is beneficial and desirable. This is the argument of the Von Moltkes, Bernhardis, Maudes, and of professional soldiers generally. Mr. Hudson Maxim argues in his *Defenceless America* that war is desirable because it secures the "survival of the fit." It is pointed out that war is a wholesome moral influence, increasing, and often creating, the virtues of patriotism and self-sacrifice. They say that war gives rise to efficiency, courage, and discipline; that war has made powerful States possible, and the powerful States have given to us the arts, literatures, religions. They tell us that war gives play to physical virility and advances the meritorious traits of keenness and alertness; that it decides differences, promotes progress, and prevents overpopulation, an important economic fact for human society. They go on to argue that war is the natural expression of human nature, that man is a fighter, and by the means of war he reaches to the supreme height of self-sacrifice, and therefore of his moral possibilities. As long as human nature remains as it is, differences are inevitable; hence the fighting instinct, the love of adventure, the human impulse following in the steps of honor and justice, will mean war for the human race throughout time. Thus wars always have been and always will be. The history of the world has been practically a continuous history of human warfare. One authority finds that throughout nearly 3,500 years there have been 227 years of

peace—thirteen years of war to one of peace. Because of such facts war is inevitable. So run the arguments for war.

But of course these half-truth arguments illustrate practically every fallacy known to logic. If men really believed that war is a divine and helpful institution, they would systematically urge and promote it. The universal aim would be to bring about war for the purpose of furthering the divinity of the institution, quite as now we aim to spiritualize the church. By the same course of reasoning we should burn houses to benefit firemen, spread disease germs to improve our doctors, rob banks systematically, and shoot up our neighbors generously unto the efficiency of our police and the good of our souls.

Again, the history of all animals, including the human animal, is not a history of fixed instincts, but a history of the modifications of their instincts. The social progress which we have made is due to the modification of our human instincts. We not only modify our instincts, but we direct them to new objects and subordinate them to other and higher instincts. If there seem to be an inevitable conflict among men, there is also an abiding instinct of mutual aid. Man is no longer a fighting animal. Men who fight are shut up. The great martial nations of the world have had a hard time. Most of them have passed away. National pride, like individual pride, ends in a paradox, and ever tends to defeat itself. Might cannot be made synonymous with right. Most of us thought we were waging this war to overcome a nation that had not outgrown the fighting instinct.

But perhaps no one fact shows the fallacy of the pro-war phrase-mongering as does the simple fact that wars are themselves waged avowedly for the purpose of ending war and of establishing peace. When the war is on, all the generals and statesmen tell us that. But, what-

ever the views of the military leaders, certainly the fathers and mothers give up their sons with pride and tears that the war may be ended by the only practical means they are able to see. At such times war is seen to be an unmitigated evil, to be ended at whatever cost of blood and treasure.

Furthermore, it is only in a most limited sense that preparation for war is an "insurance against war," a "premium for the maintenance of peace." To say that it is such an "insurance" is a fallacy. As I have pointed out in another place, insurance is a contract by the terms of which a first party agrees to pay to a second party a certain specified small amount, called a premium, for which the second party agrees to pay the first party a much larger sum in case of a contingency nominated in the agreement. Prior to this war we were spending annually upon our army and navy practically $300,000,000. If that were a premium as an insurance against war, either one of two things would have happened; we would not have had a war, or, if we had a war, we would have received from some outside party a large sum of money as reimbursement for our losses. The facts are we paid the $300,000,000 annually, and that we had our war, for which we have paid many billions. In other words, we have paid the premium and the loss besides. That is all there is to the insurance argument. The fact that all of the leading nations had powerful navies in July, 1914, did not prevent them from going to war. In our present state of international anarchy, preparation for war may be necessary. I believe that a rational amount of it is. But such preparation is not insurance. At best, it is a burglar-alarm. Great armaments do not insure peace; they tend to destroy peace. They do not exist to preserve peace; they are kept up for one purpose, and one purpose only; namely, to win in war. Armaments are for victory and conquest.

Thus the perversion of judgments represents a more serious cost than the matter of dollars and cents. The supporters of the war system do not distinguish clearly between physical and moral heroism. They seem to forget that war takes men out of productive activities, thus reducing the veritable necessities of life. They do not reckon the loss to industry, the destruction of property, the crippling of beneficence, the scourge of disease, the ruin in terms of life, the injustices, the blood-red madness, the despotism and night following the fights of armies, and the general hell of war. They ignore the fact that true freedom is found only in him who ruleth his own spirit. As long as men are ignorant, as long as evils prevail, as long as the forces of nature are unsubdued, men may find ample opportunity to exercise their honor, heroism, sense of duty, love of glory, by attacking the inanimate foes—the floods, the fires, the famines, the diseases—a behavior calling for all the virtues of the soldier in war—indeed, a spiritual warfare where affections and sympathies will bring about those generosities and methods of justice which alone can create the "great society" that is to be.

War is a monstrous perversion of the judgments and perspectives of men. The magnificence of war, called "moonshine" by General Sherman, is less possible than ever. Our armies and navies rest on fear rather than on reason; on hate—and that of no one in particular. The huge armaments of the world are a cruel slander against reason, a tribute to an utter lack of sincerity within and of any faith in the sincerity of others without. As said by Emerson, war is "an epidemic insanity." Noah Worcester said in his "Solemn Review": "War is, in fact, a heathenish and savage custom, most malignant, most desolating, and most horrible, and the greatest delusion, the greatest curse, that ever afflicted a guilty world." Thomas Jefferson called war "the great-

est of human evils." Franklin's words, July 27, 1783, to Sir Joseph Banks, were: "There never was a good war or a bad peace." Washington wrote of war in 1785: "My first wish is to see this plague to mankind banished from the earth." Gladstone called war the "original sin of nations." John Fiske characterized war as an "intolerable nuisance." It has been condemned as detestable by Wellington, inadequate by Napoleon, self-defeating by Sheridan, and unreasonable by Grant. This ghastly institution, inherited out of savagery, must go the way of the other human perversions—human sacrifice, duelling, witchcraft, thumbikin, lynching, slavery, the rack—for war is all of these and worse. What is wrong, as God lives, shall be overcome. Hence persists the will to end war.

## A STILL DEEPER REASON FOR THE WILL TO END WAR

### The Great Fact of Life

There is, however, a reason for the will to end war deeper than the cost of it all, be the cost in terms of money or of wrong-headedness. It is found in the fact that war runs counter to the basic principle of all life; namely, that life exists primarily that there may be more life. Every protoplasmic cell, every flower of the field, every child sent to school, every social worker, every courtship and marriage, every law, institution, invention, every worthy ideal, is an expression of this great fact of life struggling to produce more life. War, in practically all of its phases, is the antithesis of this principle.

The rise of the conception of this truth can be traced only imperfectly. Our earliest ancestors seem to have apprehended it but dimly. Unable to use tools or fire, slowly developing the notion and habits of family life, frequently fighting literally tooth and nail, we think of them in the human scale as savages merely. Thus they

began—"savages." Then, down the ages, cunning gradually crept into the ends of their fingers, rude tools extended the length of their arms, wild weapons expanded their powers of conquest, families united in clans—still fighting, to be sure, but no longer "savages," we say, but "barbarians." Later the clans multiplied into cities and States. The efficiency of their weapons increased. The spirit of competition grew stronger. Still living under the rule that might is right, they waged continuous and increasing wars against each other, unpeopling the world by feud and sword. As we have seen, it has been one year of peace for thirteen years of war. That we call "civilization."

But the process does not end there. The great principle of life has led some men out of savagery, out of barbarism, out of mere civilization, for a new hope is beckoning unto them, a larger revelation. These few have discovered themselves to be "members one of another." They have beheld themselves related consciously, still more unconsciously related with each other around the globe. They have seen the vision of a universal solidarity. Under this prime principle of life, the doctrine of strife has tended to give way—gradually, very gradually, but surely—to a creative belief in the social principle of mutuality, in a limitless human interrelation, in a world-wide co-operation. Thus men have the will to end war.

And now, once again, therefore, men are listening more readily and sympathetically to schemes for some sort of an international co-operation or world brotherhood. Because of the war they believe more than ever that we needs must base our institutions upon this great fact of life—that, on the whole and in the long run, life exists that there may be more life. Such, they hold, is the supreme teaching of the religions—indeed, of plain reason.

Thus survives faith in the still more hopeful march toward the world's "Gleam," toward a new humanism indeed—international, world-wide, founded in law and justice—for life means that there must be more life. In the main, wars are inconsistent with this most fundamental of all laws. Hence wars are foreordained, very gradually, but inevitably, to cease. This is what Ralph Waldo Emerson meant when, in 1838, he said, in his address before the American Peace Society, "All history is the decline of war, though the slow decline."

## THE WILL TO END WAR AN HISTORICAL FACT

The will to end war prevailing through the centuries means more than a fear of the costs, more than a pious wish. It is an historical fact influencing the course of events. Out of it have arisen institutions and a worthy literature, both to be reckoned with.

### Beginnings of the Modern Peace Movement

1815

The modern peace movement had its beginning about the year 1815, a year which marked the dawn of an interesting period in the growth of the will to end war—indeed, in the development of a variety of social organizations and reconstructions. For example, at that time forces were converging toward a more militant democracy, soon to express itself in a marked extension of public education, of agitation for woman suffrage, of temperance, and of various labor and political reforms. It was at the beginning of the transcendental movement of Kant, Schelling, Emerson. It was the year of the useless battle of New Orleans and of the waste of Waterloo; of the beginning of the Holy Alliance, and hence of the Monroe Doctrine. In that year Belgium was taken from France, to be neutralized in 1831. In that year the Grand Duchy of Luxemburg was added to Hol-

land and headed toward her neutralization in 1867. It was the year in which the Treaty of Ghent was ratified, the instrument which we may well believe ended forever international wars between English-speaking peoples. It was the year that marked the Congress of Vienna, with its league of nations that established the Kingdom of the Netherlands, united Norway and Sweden, neutralized Switzerland, reorganized Germany, maintained a sort of peace in Europe for over a generation, and directed its statesmanship for a century, yet a league that lamentably failed. It was the year in which Benjamin Lundy began the first anti-slavery societies, the beginning of the end in America of the institution of slavery. Humphrey Davy invented his safety lamp during that year. But more important than any of these, it was the year that found the world sick and tired of "seven," "thirty," and "one hundred years" wars, of Napoleonic slaughters, and of the miseries following the French Revolution, the American Revolution, the War of 1812. Battles had for the time quite consumed in their blasting flames the war passions of men. The blood lust of nations had been surfeited by 1815. The will to end war had been aroused.

### Beginning of Peace Societies

As a result, and for the first time in the history of the world, *peace societies* began. In that year, 1815, three peace societies, no one knowing of the plans of the others, sprang into being. The first was founded August 16, at the home of Mr. David Low Dodge, in New York City; another in Ohio, December 2; another, upon the initiative of Noah Worcester, December 26, at the home of William Ellery Channing, Boston. The following year peace societies began in Europe. The oldest existing peace society, "The Peace Society," London, was formed June 14, 1816. Its offices are at 47 New Broad Street, London, E. C.

The peace societies had an influence. During the nineteenth century the will to end war increased markedly. While, because of his part in inserting arbitration clauses in the treaty between this country and Great Britain, in 1794, John Jay was burned in effigy in the streets of Boston, yet since that time there have been over six hundred international arbitrations between various countries of the world. The most rapid increase in the number of these treaties occurred within the last generation. The importance of these treaties is illustrated by the fact that the violation of one of them turned a continental war into a world war. This peace sentiment grew in no small measure out of the work of the peace societies.

The countless tons of pamphlets published by these societies played their part toward expressing this will to end war. The first *tract* professedly and exclusively published for the promotion of peace was published by Mr. David Low Dodge, merchant of New York City and "father of the peace movement," in the year 1809. Today tons of such literature are being constantly spread before the world. This first pamphlet by Mr. Dodge, called "The Mediator's Kingdom Not of This World," and a second by the same author, entitled "War inconsistent with the Religion of Jesus Christ," published in 1812, both met with pronounced opposition from clergy and laity.

Noah Worcester had great difficulty in finding a publisher for his essay, "A Solemn Review of the Custom of War." It was published on Christmas day, 1814, but only on condition that it be issued "anonymously." Yet this tract was and is spread broadcast, appearing in translated form in many languages. Its influence has been profound. Largely because of it, *peace societies* spread rapidly. It converted William Ladd, founder of the American Peace Society. In spite of the war, peace

pamphlets of today are sought far and near. Furthermore, and again in spite of the war, no one has today to apologize for writing in defense of international peace. Indeed, that is what most writers are writing about and all political parties pleading for. The war, we were told, was "a war to end war."

Following the organization of the societies in New York, Ohio, and Massachusetts, we are able to record the organization of a peace society in Portland, Maine, January 31, 1817; in Providence, Rhode Island, March 20, 1817; in Vermont, 1819; in North Carolina, 1819; in Pennsylvania, December, 1822; Windham County, Connecticut, 1826; Hartford County, Connecticut, 1828. By 1828 there were peace societies in New Hampshire and Georgia. Indeed, it was estimated at that time that there were over fifty peace societies in the United States alone. As an indication of the interest in the movement, it is known that by 1833 there was a county peace society in every county in the State of Connecticut. By that year they existed also in France, Ireland, England, Nova Scotia, and Canada.

### American Peace Society

At a meeting of the Maine Peace Society at Minot, Maine, February 10, 1826, a motion was carried to form a national peace society. Minot was the home of William Ladd. The first constitution for a national peace society was drawn by this illustrious "Apostle of Peace," at the time the corresponding secretary of the Massachusetts Peace Society. The constitution was provisionally adopted, with alterations, February 18, 1828; but the society was finally and officially organized through the influence of Mr. Ladd, May 8, 1828, and with the aid of David Low Dodge, in New York City. As Mr. Dodge wrote in the minutes of the New York Peace Society: "The New York Peace Society resolved to be

merged in the American Peace Society, . . . which, in fact, was a dissolution of the old New York Peace Society, formed 16 August, 1815, and the American, May, 1828, was substituted in its place."

Today this society, with headquarters at Washington, is an incorporated organization. It initiates the American peace congresses, attempts to co-operate with the government, and to influence legislation in behalf of arbitrations and international good will. It maintains a lecture bureau, a library of peace information, and distributes tons of literature to writers, speakers, schools, colleges, and libraries. It co-operates in every possible way with other effective organizations, particularly the Carnegie Endowment for International Peace, in this country and abroad. Its program, outlined so convincingly by Mr. Ladd in 1840, is the basis of The Hague conferences, of the conception of a world governed by self-imposed laws. It is a program based upon American political experience, and calling, therefore, for a Congress and High Court of Nations to the end that international relations may be conducted in the interests of that concrete justice which flows only from law mutually made and proclaimed. The American Peace Society believes that by compromise, intelligence, and good will the nations will wish increasingly to develop for their interests and protection a more perfect union of themselves, a union built upon laws and not men, a society of all the nations resting upon the free consent of the governed. It believes that established States, large and small, will remain free, sovereign, and independent; that they will always retain certain rights, such as the right to exist, to conserve their independence and well being, to preserve their territory and jurisdiction over it, to be treated as equals before the law, to expect every respect and protection from their sister States in the

maintenance of these rights. It believes also that States can and should be led to observe certain duties, such as the duty to commit no unjust act against an innocent State, to interfere with the rights of no other State; in short, to cherish and uphold the laws which they themselves have passed and accepted.

As far as the American Peace Society adheres to a program, the program is that. It measures its work by those standards. Upon them it bases its hope for that governed world where wars shall be outlawed and laws enthroned.

Until the last decade the peace movement of America was almost exclusively the American Peace Society and its work. And that work was a worthy and notable work. The story of it would itself fill many volumes. As I have said elsewhere, William Ladd was pleading, in 1828, for a Congress of Nations. It was the American Peace Society that stood for a "Congress of Nations for the amicable adjustment of international disputes" in its Fourth Annual Report of 1832. In February, 1835, a peace petition, "signed by several thousand persons," was presented to the legislature of the State of Massachusetts, with the result that that body adopted the following resolution, first peace resolution to be adopted by a legislature:

"*Resolved*, That, in the opinion of this legislature, some mode should be established for the amicable and final adjustment of all international disputes instead of to resort to war.

"*Resolved*, That the Governor of this Commonwealth be requested to communicate a copy of the above report and of the resolutions annexed to the Executive of each of the States, to be laid before the legislature thereof, inviting a co-operation for the advancement of the object in view."

Again, through the influence of the American Peace Society, a joint committee of the Senate and House of

Representatives of the State of Massachusetts adopted unanimously, in 1837, in the Senate and practically unanimously in the Lower House other resolutions condemning war as a means of adjusting international disputes, approving a "Congress or Court of Nations," and recommending to the Executive of the United States negotiations, "with a view to effect so important an arrangement." The following year the Massachusetts legislature passed four other resolutions, the third of which reads:

"*Resolved*, That the institution of a Congress of Nations for the purpose of framing a code of international law and establishing a High Court of Arbitration for the settlement of controversies between nations is a scheme worthy of the careful attention and consideration of all enlightened governments."

The fourth resolution was as follows:

"*Resolved*, That his Excellency the Governor of this Commonwealth be requested to transmit a copy of these resolves, with the accompanying report, to the President of the United States and to the Executive of each of the States, to be communicated to their respective legislatures, inviting their co-operation in the proposed object."

The Society submitted petitions to the United States Congress in 1837, 1838, 1839, 1840, 1841, and 1849. Just prior to 1840 the agitation for a Congress of Nations for the purpose of establishing an international tribunal was, because of the work of the American Peace Society, popular and widespread. In 1849, for example, Richard Cobden submitted to the House of Commons on the 12th of June a proposal that England enter into communication with foreign powers for the purpose of referring matters in dispute to the decision of arbitrators. Meeting with the opposition of the Palmerston cabinet, the proposition was rejected by a vote of 176 to 79. In 1851 the American Peace Society presented,

through Robert C. Winthrop, a petition to the United States Senate, with the result that Mr. Foote, chairman of the Senate Committee on Foreign Relations, affirmed that arbitration as a system was "perfectly reasonable," and with the further result that the committee unanimously reported:

"That it would be proper and desirable for the Government of these United States, whenever practicable, to secure, in its treaties with other nations, a provision for referring to the decision of umpires all misunderstandings that cannot be satisfactorily adjusted by amicable negotiation, in the first instance, before a resort to hostilities shall be had."

In February, 1853, largely through the efforts of the American Peace Society, particularly because of the work of its President, the Hon. William Jay, the Committee on Foreign Relations of the United States Senate adopted the following resolution:

"*Resolved*, That the Senate advise the President to secure, whenever it may be practicable, a stipulation in all treaties hereafter entered into with other nations, providing for the adjustment of any misunderstanding or controversy which may arise between the contracting parties by referring the same to the decision of disinterested and impartial arbitrators to be mutually chosen."

The principle of arbitration was established between this country and Great Britain in a treaty relative to fishing grounds, under date of June 5, 1854. Among other things, the treaty provided that:

"The Commissioners shall name some third person to act as an arbitrator or umpire in any case or cases on which they may themselves differ in opinion.

"The high contracting parties hereby solemnly engage to consider the decisions of the Commissioners conjointly, or of the arbitrator or umpire, as the case may be, as absolutely final and conclusive in each case decided upon by them or him respectively."

The American Peace Society continued to plead with

Congress and State legislatures for a Congress and High Court of Nations and for stipulated arbitration up to the opening of the Civil War. In 1866 it sent a deputation to Congress with a petition in behalf of stipulated arbitration and a Congress and High Court of Nations. In 1872 the Society presented a new memorial to Congress in behalf of a permanent system of arbitration and a High Court of Nations, a petition which was signed by some twelve thousand citizens. The result was that, with the aid of Mr. Charles Sumner, there was reported from the Committee on Foreign Relations of the United States Senate a series of resolutions advocating a permanent system of arbitration.

The next year Mr. Henry Richard secured a parliamentary declaration from the House of Commons, under date of July 8, as follows:

"That an humble address be presented to her Majesty, praying that she will be graciously pleased to instruct her principal Secretary of State for Foreign Affairs to enter into communication with foreign Powers, with a view to the further improvement of international law and the establishment of a general and permanent system of international arbitration."

In 1874, because of the influence of the American Peace Society, petitions from different parts of the country were again sent to Congress, with the result that on the 17th day of June of that year the House of Representatives unanimously adopted resolutions in favor of arbitration, and the Senate approved them also with unanimity on the 25th of that month.

The Society sent repeated petitions through the eighties to the Congress, calling attention to the desirability of a conference of the States of this Hemisphere in the interest of peace and better trade relations. Following its memorials, ten bills were presented in Congress for such a Congress of all the Americas, until

finally the Pan-American Congress, duly authorized by Congress, met in the autumn of 1889. In 1888, 235 members of the British Parliament forwarded a communication to the President and Congress of the United States, urging the conclusion of a treaty of arbitration between this country and Great Britain. Petitions and memorials from multitudes of individuals and associations across the country, and mass meetings, particularly in New York, supported the British proposal. As a result of this movement the Committee on Foreign Relations of the Senate reported a joint resolution embodying the principle of arbitration in the case of differences or disputes arising between this government and other nations. January 11, 1897, a permanent treaty of arbitration between the United States and Great Britain was signed, but failed of ratification in the Senate.

Perhaps the most important illustration from those days of the prevailing interest in arbitration was the publication by the Government of the United States, in 1898, of John Bassett Moore's six volumes dealing exhaustively with the history and digest of the international arbitrations to which the United States had been a party.

Rules governing the procedure of international tribunals of arbitration were discussed by the Institute of International Law at Geneva, in 1874, and again at The Hague, in 1875. Another set, submitted by a committee of lawyers at the Universal Peace Congress, Chicago, 1893, revealed something of the attention serious-minded men were giving to the judicial settlement of international disputes. John Hay, Secretary of State, in his instructions to the American delegates to The Hague Conference of 1899, submitted an "annex," setting forth a plan for an international tribunal.

Many resolutions passed by many conferences indicate clearly the wisdom of William Ladd, founder of the

American Peace Society, as set forth especially in his essay on a "Congress of Nations." The most significant current expression of that wisdom is found in the "Declaration of the Rights and Duties of Nations," adopted by the American Institute of International Law at its first session, in Washington, January 6, 1916, and in the Recommendations of Habana, adopted by the American Peace Society January 22, 1917, and by the American Institute of International Law at its second session, in the city of Habana, January 23, 1917.

Thus the American Peace Society has been a no insignificant factor in the rise of the will to end war.

### The First Peace Periodicals

Periodicals also have played a part in the will to end war. The first periodical devoted exclusively to the cause of international peace was entitled "The Friend of Peace," the product of Noah Worcester's intelligent and consecrated spirit, the first number being published in Philadelphia in 1816. Worcester had seen service in the American Revolution. He knew war, therefore, at first hand. For twelve years he published his worthy periodical at his own expense. It is profitable reading still. The title page of the first copy reads:

The
**FRIEND OF PEACE,**
containing
**A Special Interview**
between
THE PRESIDENT OF THE UNITED STATES AND OMAR,
an officer dismissed for duelling.

SIX LETTERS FROM OMAR TO THE PRESIDENT,
with
A Review of the Power Assumed by Rulers Over the Laws of God and the Lives of Men, in Making War,
and
OMAR'S SOLITARY REFLECTIONS.

The Whole Reported

By Philo Pacificus,

Author of "A Solemn Review of the Custom of War."

"Only by pride cometh contention."—*Solomon.*

"Happy is he that condemneth not himself, in that thing which he alloweth."—*Paul.*

**PHILADELPHIA.**

Published for the Author,

By Kimber and Sharpless, No. 93 Market Street.

Merritt, Printer.

1816.

Later pages of this magazine contain analytical accounts of campaigns, war news of current interest, peace sermons and exhortations, peace society notes, many letters, all constituting suggestive historical source books of that early period. It is of interest to note that No. 4 of the series went through seven editions in America.

The oldest peace periodical today is *The Herald of Peace,* published by the Peace Society, London, the first number appearing January, 1819.

Mr. Ladd's *Harbinger of Peace* first appeared, under the auspices of the American Peace Society, in May, 1828. The first number starts with a "Circular Letter of the American Peace Society," written by the editor. The letter begins with a historical summary of the peace movement and closes with a staunch appeal for international peace, mentioning at that early period the need of a "congress of nations."

For the months of May and June, 1831, *The Harbinger of Peace* was increased to twice its original size and the name changed to the *Calumet.* This was published bimonthly by the American Peace Society, under almost the exclusive editorship of Mr. Ladd, until 1835, the last number being for the months of March and April of that year. Its editorials, essays, and poems are for the most part excellent in thought and style, and,

together with the many reports, they present an interesting picture of early nineteenth-century life in America.

In 1835 the American Peace Society "relinquished" the *Calumet* for the *American Advocate of Peace,* which had been established by William Watson, of the Connecticut Peace Society, in Hartford, beginning June, 1834. The first number of the *American Advocate of Peace,* "put out for the American Peace Society," was printed in June, 1835. It continued to be published at the headquarters of the American Peace Society, in Hartford, until the death of William Watson, November, 1836; after which the society moved to Boston and began there the publication of the ADVOCATE OF PEACE in June, 1837. From August, 1884, to June, 1892, the official organ was called *The American Advocate of Peace;* but since it has been called again simply ADVOCATE OF PEACE. The virility of this monthly expression of the peace movement in America is shown by the fact that its circulation increased under the editorship of Dr. Benjamin F. Trueblood* by over thirteen times that at the beginning of his administration.

### Peace Congresses

From the small beginnings, as briefly told, peace sentiment extended rapidly in this country and abroad. The first international peace congress was initiated at the headquarters of the American Peace Society in Boston during the month of July, 1841, and held in London in 1843, with an attendance of about three hundred delegates. Five years later, Elihu Burritt, who had founded the "League of Universal Brotherhood" in 1846, a league of many thousand members on both sides

* Because of ill health Dr. Trueblood resigned the secretaryship of the American Peace Society in May, 1915. He died at his home, in Massachusetts, October 26, 1916.

of the ocean, was able to bring together a second and more representative peace congress in Brussels. The following year, and through Burritt's influence, there was organized a third congress in Paris, presided over by Victor Hugo, with over 2,000 delegates in attendance. In 1850 Burritt successfully promoted a fourth international peace congress in Frankfort, and in 1851 a fifth, which was held in London. It is to the credit of his time that Elihu Burritt, one time secretary of the American Peace Society, and editor of the ADVOCATE OF PEACE, was recognized as the man of vision, prophet and seer. It is to the credit of our time that it agrees with James Brown Scott that "the lowly son of New Britain has entered into the company of the immortals." A congress was held in Edinburgh in 1853, in Geneva in 1867, in Paris in 1878, in Brussels in 1882, and in Berne in 1884.

The second series of international peace congresses was proposed in 1888. In this series there have been twenty-one, as follows: Paris, 1889; London, 1890; Rome, 1891; Berne, 1892; Chicago, 1893; Anvers, 1894; Budapest, 1896; Hamburg, 1897; Paris, 1900; Glasgow, 1901; Monaco, 1902; Rouen et Havre, 1903; Boston, 1904; Lucerne, 1905; Milan, 1906; Munich, 1907; London, 1908; Stockholm, 1910; Geneva, 1912; The Hague, 1913, and San Francisco, 1915.

There was an American Conference of International Arbitration held in Washington, April, 1896, and another in the same city, January, 1904. The Pan-American congresses, first proposed by Bolivar in 1824, have been many. As a result of the one held upon the initiative of Secretary James G. Blaine, in Washington, in the winter of 1889-90, the Bureau of American Republics, now the Pan-American Union, was organized. A Pan-American Congress was held in Mexico City, 1901-

1902; in Rio de Janeiro, 1906; in Buenos Aires, 1910. We now have recurring Pan-American Financial, Scientific, and International Law conferences.

### The Interparliamentary Union

The Interparliamentary Union, with a membership of over three thousand parliamentarians, representing some twenty nations, was first mooted by Messrs. Fischoff and Richard in 1875. Plans for its organization were halted by the Russo-Turkish War; but, through the influence of William Randal Cremer, a preliminary meeting of parliamentarians from Great Britain and France was held in Paris in the autumn of 1888. In June, 1889, the organization was perfected at Paris, and Frederick Passy was elected president. Fifty-five French parliamentarians, thirty British, together with representatives from the Italian, Spanish, Danish, Hungarian, the Belgian, and the United States parliaments, were in attendance. The representative from the United States was Mr. J. R. Whiting. Germany entered the union at the next meeting, in London, July, 1890. In 1913 the Union held its eighteenth annual Conference at The Hague. At the meeting of the Interparliamentary Council held at The Hague, June 5, 1920, it was voted to hold the nineteenth conference at Stockholm in 1921.

### Arbitrations

The first resolution passed by any government specifically in favor of the principle of arbitration was pushed through the House of Commons in 1873 by Henry Richard, who for forty years was secretary of the London Peace Society and who for over twenty years was a member of the English Parliament. In the last half dozen years nearly one hundred arbitration treaties, providing that certain questions must and others may be settled by arbitration, have been passed by various na-

tions of the world. The United States has been a party to over a score of these. In 1907 Costa Rica, Guatemala, Honduras, Nicaragua, and Salvador agreed to submit to arbitration all questions which might arise between any two of them not possible of settlement by diplomacy. Indeed, it is to the credit of these Central American States that in their Central American Court they actually set up, albeit for a time only, the first, and so far the only international court of justice in the history of the world.

### International Plans and Organizations

The rise of international bodies possessing more or less legislative power is impressive. The Book of Genesis tells of four kings waging war with five other kings in the Vale of Siddim. Arbitration was a familiar and successful practice throughout the known history of Greece. Probably antedating this Biblical example of international co-operation was the Amphictyonic Council of a dozen Greek tribes watching over the religious interests of the tribes, exercising genuine judicial authority, and, in its representative capacity, regulating both peace and war for fifteen centuries under the terms of a genuine intertribal treaty of arbitration.

If we may believe Herodotus, a similar "league" of twelve cities, with headquarters at Helice, existed in prehistoric Greece. Out of this developed the better-known Achæan League, in 280 B. C. While this Achæan League presents a picture marred by human weakness and discord, it also reveals man in his reach toward international organization, often with warlike purposes, it is true, but federal and co-operative nevertheless. For over a century it dominated Greek political life, and when, in 146 B. C., it finally fell, all Greece fell with it. The Ætolian League, contemporary with the Achæan, is another, and perhaps as effective, illus-

tration of federated interstatecraft. There were other leagues, such as the Thessalian and Boeotian. The Lycian Confederacy, comprising twenty-three cities, the large cities having three votes, the small cities two, was a judicial organization in the days of Vespasian.

Virgil's fourth Eclogue, picturing a return of the Golden Age, was Messianic in its prophecy; while in the first Georgic war is condemned; and in the first book of the Æneid, written during the first generation of our Christian Era, Jupiter is made to agree with Isaiah as to the future of war. The Helvetic Union, beginning 1308, was organized for purposes of defense and peace, and consisted of a diet with a court of judges. Dante, in his "Convivio" of the early fourteenth century, presents an argument for a universal empire based upon force; and in his De Monarchia, Book I, he has written an impassioned plea for a world monarchy or league of peace. Erasmus wrote, in 1509, his *"Encomium Moriæ"*—"Praise of Folly"—in which he attacks the institution of war; and, disappointed at the failure of the plan to hold a peace congress at Cambray, he wrote, in 1517, his *"Querela Pacis"*—"The Complaint of Peace"—which is fresh and convincing material for the peace workers even of today. One wishing to know more of the best-known peace workers and plans of the seventeenth century is referred to Emeric Crucé, Grotius, Sully, and William Penn; of the next century, to Abbé de Saint-Pierre, Jean Jacques Rousseau, Jeremy Bentham, and Immanuel Kant.

Mutual protection and advancement of trade brought nearly a hundred towns of northern Europe together in the Hanseatic League of Peace of the thirteenth, fourteenth, and fifteenth centuries. The dominating influence of this powerful organization for so many years was second only in importance to the very fact of its existence at all.

In fine, the "international mind" was brooding back there in the Vale of Siddim, in the temples of Apollo and Demeter, in Helice and the groves of Ægium, in Ætolia, and in the Hansa of four, five, and six centuries ago. It has persisted increasingly through the centuries.

Reference has already been made to all of the European powers, save Turkey, meeting in the "Congress of Vienna" in 1815. There have since been many other international congresses. National independence came to Greece as the result of a protocol signed by the great powers in congress assembled at London in 1830. The Treaty of London in 1831, ratified by six powers within a year, established the independence of Holland and Belgium. It was a congress of the powers at Paris in 1856 that made the close of the Crimean War possible. It was a congress of representatives from sixteen nations at Geneva, in 1864, that established the Red Cross Society. It was a congress of the powers in London, in 1867, that neutralized the Grand Duchy of Luxemburg. It was a congress of national representatives at St. Petersburg, in 1868, that restricted the nature of bullets in times of war. It was an international congress at Brussels, in 1874, that placed definite restrictions upon the practices of war. A congress of nations at Berne in 1874 established the International Postal Union. The Congress of Berlin, meeting at the home of Bismarck in 1878, fixed the map of eastern Europe and closed the Russo-Turkish War. Indeed, since 1875 the number of international meetings has increased greatly. There are today approximately 1,000 international organizations. During the year 1912 there were approximately one hundred and thirty international conferences. And more impressive, perhaps, than any of these international conferences already mentioned have been the Geneva Tribunal, which settled the Alabama claims in 1872; the

Paris Tribunal, which settled the seals controversy in 1893; and The Hague Tribunal, which settled the North Atlantic Coast Fisheries dispute with Great Britain, lasting through three generations, in 1910.

### Peace Foundations

The will to end war has found expression in permanent institutions and foundations. The World Peace Foundation of Boston, for example, is a corporation with an endowment of $1,000,000, left by Edwin Ginn. This foundation, begun in 1910, states in its by-laws that its purpose is to educate the people of all nations to the full knowledge of the waste and destruction of war, its evil effects on present social conditions and the well being of future generations, and to promote international justice and the brotherhood of men; and, generally, by every practical means to promote peace and good will among all mankind.

Mr. Andrew Carnegie was a veritable embodiment of the will to end war. He founded the Carnegie Endowment for International Peace December 14, 1910, and created a board of trustees, to whom he transferred $10,000,000, the revenue of which is administered for hastening the abolition of international war. February 10, 1914, he established the Church Peace Union, setting aside for its purposes $2,000,000. He placed at the disposal of the Dutch Government $1,500,000 for a Palace of Peace at The Hague as a fitting place for a library of international law and a court of arbitration. The construction of the palace was begun in 1907; it was completed in 1913 and dedicated August 28 of that year. Mr. Carnegie provided $100,000 for the construction of a building for the Central American Court of Justice, which building was located at Cartargo. When this structure was destroyed by earthquake, in 1910, he pro-

vided another $100,000 for the construction of a new building, which was located at San José, Costa Rica. The Pan-American Union building, located in Washington, represents also the generosity of Mr. Carnegie. At the laying of the corner-stone of this building, May 11, 1908, Mr. Elihu Root, then Secretary of State, delivered an address in which he said:

"The public spirit and enthusiasm for the good of humanity, which have inspired an American citizen, Mr. Andrew Carnegie, in his administration of a great fortune, have led him to devote the adequate sum of three quarters of a million dollars to the construction of this building. . . .

"The graceful courtesy of the twenty republics who have agreed upon the capital of the United States for the home of this International Union, the deep appreciation of that courtesy shown by the American Government and this representative American citizen, and the work to be done within the walls that are to rise on this site cannot fail to be powerful influences towards the creation of a spirit that will solve all disputed questions of the future and preserve the peace of the Western World."

The building was dedicated April 26, 1910, and is in itself an expression of the will to maintain peace between the American republics. The important fact is, not that Mr. Carnegie saw fit to give these munificent sums, but that he was himself an expression of the common will to end war.

There are institutions and foundations abroad, such as the Bureau Internationale de la Paix; the Nobel Foundation, with its generous annual prize for the most effective work in behalf of international peace; the peace societies and publications of Britain, France, Germany, Austria, Italy, and practically all of the other countries of Europe.

The will to end war is an international fact.

## The two Hague Conferences

The chief encouragements in the modern growth toward a practical solution of the problem of war have been the international conferences at The Hague, the first beginning May 18, 1899, and the second June 15, 1907.

### The First Hague Conference

The Czar's rescript of August 12–24, 1898, inaugurated an era of discussion. This letter, resulting in the First Hague Conference, was an expression of the gradually growing will to end war. Hugo Grotius' classic, entitled "The Rights of War and Peace," a work which began our system of international law in the early seventeenth century; such books as "Lay Down Your Arms," written by Bertha von Suttner in 1889, and the work of the Polish Jew, Jean de Bloch, entitled "The Future of War," appearing just before the Czar's call to the nations in the interest of "a real and durable peace," were a few of the evidences of that public sentiment which made the Czar's letter possible.

The First Conference at The Hague is one of the great facts of history. Among its contributions to the nations was the establishment of an international tribunal for the arbitration of international disputes. The article which established this tribunal is called "the Magna Charta of international law." Since its opening, in April, 1901, the tribunal has settled to the satisfaction of all parties sixteen international disputes, a number of which might easily have led to war. These cases have been as follows:

First. The Pius Fund Case, involving issues between the United States and Mexico, 1902.

Second. The Venezuela Preferential Case, Germany, Great Britain, and Italy *vs.* Venezuela *et al.,* involving eleven nations, 1904.

Third. The Japanese House Tax Case, being an issue between Japan and the three powers, Great Britain, France, and Germany, 1905.

Fourth. The Muscat Dhows Case, covering issues lying between Great Britain and France, 1905.

Fifth. The Casablanca Case, France *vs.* Germany, 1909.

Sixth. The Grisbadarna, or Maritime Boundary Case, Norway *vs.* Sweden, 1909.

Seventh. The North Atlantic Coast Fisheries dispute, between the United States and Great Britain, 1910.

Eighth. The Orinoco Steamship Company issue, between the United States and Venezuela, 1910.

Ninth. The Savarkar Case, France *vs.* Great Britain, 1911.

Tenth. The Russian Indemnity, or Interest Arrears Case, Russia *vs.* Turkey, 1912.

Eleventh. The Canevaro Claim, Italy *vs.* Peru, 1912.

Twelfth. The Manouba, or Seizure of French Ship Case, France *vs.* Italy, 1913.

Thirteenth. The Carthage, or Seizure of French Ship Case, France *vs.* Italy, 1913.

Fourteenth. The Tavignano, Kamouna, Gaulois Cases, France *vs.* Italy, 1913, submitted to a Commission of Inquiry and settled out of court.

Fifteenth. The Isle of Timor Case, Netherlands *vs.* Portugal, 1914.

Sixteenth. Religious Property Case, Spain, France, Great Britain *vs.* Portugal, 1920.

Seventeenth. French Claims *vs.* Peru (not yet presented).

Practically one hundred treaties, over a score of which have been signed by the United States, were passed pledging signatory powers to use this court, while practically one hundred and fifty standing international

treaties have been ratified, largely because of the influence of the conference.

The First Hague Conference provided further for an International Commission of Inquiry, which shall investigate questions of fact prior to the beginnings of hostilities. It was this organization which settled the acute Dogger Bank dispute between England and Russia during the Russo-Japanese War. It was the immediate forerunner of the original Wilson Administration peace plan, the work of Mr. Bryan, a plan which is already enacted into the terms of thirty international treaties.

The First Hague Conference provided for mediation in case of hostilities; it inspired the Temple of Peace, dedicated August 28, 1913, at a cost of one and one-half million dollars; it made possible a Second Conference; it revised the code of warfare in sixty articles designed for the improvement of the practices of war. The First Hague Conference aimed to supplant the old-time rule, that "In the midst of warfare, laws are silent," with "In the midst of warfare, laws shall rule." While it failed in this last respect, it was, as a whole, an expression of a rational attempt to lessen the probabilities and horrors of war by the methods of a governed world under self-imposed laws.

The twenty-six nations of the world, invited because they were represented at St. Petersburg, including twenty European, four Asiatic, and two American powers, were represented by one hundred delegates at that conference. As pointed out by Mr. Choate and others, it was there for the first time, in that First Hague Conference, that nations unanimously agreed that respect for law, rather than for mere compromise and diplomacy, must be the next great step in international adjustments. Following that conference, and largely because of it, the center of gravity in interna-

tional politics was changed for a time from an emphasis upon war to an emphasis upon peace. War, not peace, became anathema. So strong was the opposition to war that the warriors precipitated a war for fear of their overthrow. And the war having begun, the people outside the original contestants would have nothing to do with the business except it be a war to end war. The First Hague Conference was an expression of the will to end war; more, it is proper to think of it as being in itself the beginning of the legislative branch of our international order that is to be.

### The Second Hague Conference

The Second Hague Conference, suggested by the Interparliamentary Union meeting at St. Louis, in 1904, and initiated by the United States Government, had its first meeting at The Hague, June 15, 1907, and lasted until the 18th of the following October. At this conference 44 of the world sovereignties, practically all of them, were represented by 174 delegates, picked men, including 15 ambassadors and 51 ministers. This conference, like the first, aimed to promote agencies calculated to regulate or canalize the devastations of war. For example, it passed many measures for the protection of neutral States and neutral citizens; it provided that a distinct declaration of war must hereafter be made before hostilities can be begun; it agreed upon an International Prize Court, with power to try cases by international law, a real international court aimed as a blow to piracy. The conference defined towns situated near fortified coasts to be unfortified towns, and, furthermore, that towns with submarine mines in their ports are not because of that to be subject to bombardment; it provided for the restriction of floating mines in war time where dangerous to neutral commerce. It composed a complete code of rules for the guidance of future inter-

national procedure—a decided step away from mere diplomacy toward an effective international court. The nations completely reversed one so-called principle of international law, by agreeing never to resort again to arms for the collection of contract debts due from one nation to the citizens of another without first employing every possible means of arbitration. The nations relinquished much of their old theories of sovereignty and revealed a sympathetic belief in the humanitarian political ideal of a free opportunity for each, man or nation, to achieve happiness in the service of a free and an advancing democracy.

The question of the reduction of armaments was not upon the program of the conference and could not, therefore, come officially before the convention; but, to the terror of the militarists, this whole question became the object of careful study. Thirty-five of the nations, representing practically nine-tenths of the people of the world, voted, strangely enough, for a general treaty of obligatory arbitration.

The recurring Hague conferences may yet be found to constitute in themselves the beginning of a legislative body. As we have seen, the judicial department has already begun to emerge, first in the Permanent Court of Arbitration, second in the proposed International Prize Court, the first to function in time of peace, the latter to function in times of war. Besides, there is the International Court of Arbitral Justice all but established.

In the light of what is taking place now at The Hague,* we may well pause upon this International Court of Arbitral Justice. The Second Hague Conference recognized with Mr. Root that the great need of our age is the substitution of a judicial action between the na-

* July, 1920.

tions for our present diplomatic procedure. Our American delegates at the Second Hague Conference stood, therefore, for this High Court of International Justice, this International Supreme Court, with the thought that it should meet periodically as does our Supreme Court. This matter was so left that any two nations could meet at any time, organize the Court, open its doors, and begin the business of an International Supreme Court. It became the policy, however, of the nations to wait until a sufficient number of leading Powers could agree upon the method of selecting the judges. Secretary Knox conceived that the proposed International Court of Prize might be expanded into such an International Court. But now, upon the initiative of the Counsel at the League of Nations, there has been appointed, under Section 14 of the Covenant, a commission, now in session at The Hague; and, as a result of its work, there is every reason for believing that such a Court will soon be successfully launched. The establishment of this Court is the most important political problem before the world, because in the name of that justice which only can beget peace it is the most important single feature of an effective will to end war.

The adoption of an international executive branch of government need not now be taken; indeed, it cannot now be taken. The power of international public opinion, as an executive force to be applied against States, is the only force so far acceptable to the powers.

The Second Hague Conference was important. The measures mentioned are sufficient to make it of interest to thoughtful men. It ranks as the first congress of practically all of the nations of the world. During its sessions the most delicate subjects were discussed by the various representatives of the nations, often with spirit and feeling, but always with order and good will. The

record of it stands there on the pages of history, an attestation of the victory of the thoroughly open discussion. It reveals the possibilities in a juridical union, self-perpetuating, and gives to the world its reasonable hope in the ultimate government of nations under law. It is a witness to no quackery, but rather it is an illustration of the true grandeur of sincerity at its best. It reveals man seeing with a clearer and clearer vision that under every normal condition loyalty to truth and justice is a more excellent patriotism than a blind obeisance to tribe, or place, or party. It encourages us to believe that the relations existing between nations are destined to become as the relations existing between men everywhere under law. It strengthens us in the faith that true patriotism calls for deeds of daily service in an honorable, sympathetic, and sacrificial citizenship, more than it calls for seeking the bubble reputation at the cannon's mouth; that man will yet cease to bound his morals by the limits of man-created political entities, and achieve the goal of his will to end war.

### The League of Nations

The Covenant of the League of Nations, forming part 1 of the Treaty of Peace with Germany, "Done at Versailles, the twenty-eighth day of June, one thousand nine hundred and nineteen," is an expression of the will to end war. For the purposes of this paper it is not necessary to discuss the question whether or not this covenant be sane in principle, consonant with the teachings of history, or even a step toward peace. The fact is that it is an expression of the will among men that the methods of war shall give way to the modes of peace. This will appear from the wording of the first paragraph of the covenant, which reads:

"The High Contracting Parties,

"In order to promote international co-operation and to achieve international peace and security

"by the acceptance of obligations not to resort to war,

"by the prescription of open, just and honourable relations between nations,

"by the firm establishment of the understandings of international law as the actual rule of conduct among Governments, and

"by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another,

"agree to this Covenant of the League of Nations."

There it is, the will to end war.

## THE ASSURANCES OF OUR VICTORY

The Society of Nations will live; if not this League of Nations, surely the "solidarity uniting the members of the society of civilized nations." If from time to time we be most ignorant of what we are most assured, this is not true of us as we look now upon the Society of Nations surely struggling once more into being. We know now that a governed world is about to supplant the anarchy of international hate with its unbridled destructions. We now know that the trained intelligence of the world has found its chart and compass again, and that by their aid the ship of Justice is headed on its proper and inevitable course.

The ultimate victory of justice as between nations is assured. Men everywhere, particularly, we may be pardoned for saying, every friend of the American Peace Society, may well rejoice. Facts, not hopes only, come to make our assurance doubly sure. An Advisory Committee, made up of ten of the world's leading jurists, assembled at The Hague, has unanimously agreed upon four things. These four things are:

A.

A draft scheme for the establishment, in addition to the Court of Arbitration organized at The Hague Conventions of 1899 and 1907, and in addition to the special tribunals of arbitration to which States are always at liberty to submit their disputes for settlement, a *Permanent Court of International Justice,* to which parties shall have direct access.

B.

The *continuation of The Hague Conferences.* The exact wording of their recommendation with reference to this reads:

I. That a new conference of the nations, in continuation of the first two conferences at The Hague, be held as soon as practicable, for the following purposes:

1. To restate the established rules of international law, especially, and in the first instance in the fields affected by the events of the recent war.

2. To formulate and agree upon the amendments and additions, if any, to the rules of international law shown to be necessary or useful by the events of the war and the changes in the conditions of international life and intercourse which have followed the war.

3. To endeavor to reconcile divergent views and secure general agreement upon the rules which have been in dispute heretofore.

4. To consider the subjects not now adequately regulated by international law, but as to which the interests of international justice require that rules of law shall be declared and accepted.

II. That the Institute of International Law, the American Institute of International Law, the Union Juridique Internationale, the International Law Association, and the Iberian Institute of Comparative Law be invited to prepare, with such conference or collaboration *inter sese* as they may deem useful, projects for the work of the conference, to be submitted beforehand to the several governments and laid before the conference

for its consideration and such action as it may find suitable.

III. That the conference be named Conference for the Promotion and Extension of International Law.

IV. That this conference be followed by further successive conferences at stated intervals, to continue the work left unfinished.

C.

A recommendation that the Council and the Assembly of the League of Nations examine the advisability of establishing in the future also another kind of a *High Court of International Justice,* conceived in these terms:

1. A High Court of International Justice is hereby established.

2. This court shall be composed of one member for each State, to be chosen by the group of delegates of each State represented in the court of arbitration.

3. The High Court of Justice shall be competent to try crimes against international public order and the universal law of nations, which shall be referred to it by the Assembly or by the Council of the League of Nations.

4. The court shall have power to define the nature of the crime, to fix the penalty, and to prescribe the appropriate means of carrying out the judgment. It shall formulate its own rules of procedure.

D.

That the *Academy of International Law* founded at The Hague in 1913, whose operation has, owing to circumstances, been interrupted, shall as soon as possible resume its activity alongside of the Permanent Court of Arbitration and the Permanent Court of International Justice, in the Peace Palace at The Hague.

These are assurances of victory indeed, victory for the constructive peace workers of a century.

## THE WORLD'S MOST SIGNIFICANT DOCUMENT.

The most notable and significant document before the world today is the recommendation, submitted by the Advisory Committee of Jurists meeting at The Hague from June 16 to July 24, of the proposed Permanent Court of International Justice. The complete Draft of this plan is in the Appendix of this pamphlet. A London correspondent has cabled that able critics in London "regard it as competent in all its details and as representing the most perfect flower from such worth-while seed as the Treaty of Versailles contained." We are of the opinion that this is not an overstatement of the fact.

### Acceptable to All

It will be noted that the project contemplates a real international court of justice to which no informed person can object. If the recommendations of the commission be adopted by the League or otherwise, the members of the court will act as judges in the full sense of the word, administering rules of law accepted by the nations. The court will be always ready and open for cases. Passionless decisions will thus be made possible, in accordance with the known facts and the acknowledged principles of international law, and that irrespective of political policy. The sanction of the court, like the sanction of the Supreme Court of the United States in issues between States, is to be, not shrapnel and poison gas, but rather that sanction of sanctions; namely, the court's own moral worth. Nations submitting their cases to such a court can neither lose vestige of their national sovereignty nor run the risks peculiar to mere diplomatic settlements. The project represents a careful, balanced adjustment of the interests peculiar to the big Powers on the one hand and the little States on the other. It contemplates the creation of nothing

out of mere air; it represents the natural evolution of judicial processes from out a known and creditable past. It makes possible for the States of the world what history has demonstrated to be indispensable; namely, a government of laws and not of men. None versed in the course of justice between States can object to such a tried and established method.

### League Must Be Changed

Yet the plan will embarrass the present League of Nations. While the project is the immediate result of the action of the Council of the League of Nations, acting under Article XIV of the Covenant, it is quite inconsonant with that political organ contemplating as it does a superstate backed by an impossible scheme for the physical enforcement of the weak by the strong. We are told that diplomats abroad consider the proposed court as differing essentially from the basic idea underlying the Council of the League of Nations. This it happily does. Undoubtedly the Covenant of the League of Nations will have to be modified to meet the spirit of this proposal. It will be changed. Readers of these columns will discover that it is being changed. Its modification will be acceptable in Downing Street, at the Quai d'Orsay, and at the other capitals. We believe it to be generally recognized among the friends of the Covenant in this country and abroad that Article X of the Covenant, for example, must be expunged, if the League is to survive. Not only Article X, but Articles XI and XVI of the Covenant have been found to be specially impossible of application in concrete cases. They will be changed. It appears that the European friends of the original Covenant are for the most part aware at last that these articles are not only impossible, but that they are in every way needless in any effective international organization—antagonistic, indeed, to the

basic principles of peaceable settlement. This has all been inevitable since Mr. Wilson returned from Paris. But the whole situation has been immeasurably relieved by this unanimous agreement of this committee of jurists—triumph that it is in the accommodation of the various schools of international law and practice, and free, as it is, of the complications thrust before us by various articles of the Covenant, ambiguous if not dangerous.

### Court Not Dependent on League

It ought not to be necessary utterly to "scrap the League of Nations." But be that as it may, the encouraging fact is that the proposed court is not dependent upon that organization. It is true that the court may come into being upon the action of the Council and the approval of the Assembly of the League of Nations. Its development may follow upon the continuance of those bodies. But these things are not necessarily so; for should the League cease to exist the court may be both organized and perpetuated. This will be clear when we consider certain facts. Thus, we have every assurance that there are to be conferences of all the nations, as recommended by the Advisory Council of Jurists, a continuation of The Hague conferences. It would be easily possible for the first of such conferences to invest the body of diplomatic representatives accredited by the nations to The Hague—a group referred to, both in 1899 and 1907, in the Convention for the Pacific Settlement of International Disputes, as the "Administration Council," with all the essential functions of the Assembly of the League of Nations, so far as the establishment of the court is concerned. An Executive Committee of that Administrative Council, to be chosen for the purpose, might easily function as the present Council of the League of Nations, with all the powers

of that Council in the establishment of a court. Thus the court might be established, the judges selected, and the project put into effect, whether the League of Nations survive or perish. In other words, the International Court of Justice, with headquarters at The Hague, can now come into being and thrive unto the healing of the nations, irrespective of the conflict of ideas over the creation of the Treaty of Versailles.

### Based Upon Wisdom

It is important that every intelligent person should study with care the sixty-two articles of this project, the first thirty dealing with the organization, the next six with the competence, and the final twenty-six with the methods of the Permanent Court of International Justice. From the very first article it is apparent that the field of peaceful settlement of international disputes is to be materially enlarged. Under the plan, we are to have a new agency for the protection of the nations, but an agency based on principles ancient and tried. It is not to be a substitute for other and well-known methods of settlement; but, under it, States are to be able at last to adjust their differences, not by threats and force and bloodshed, but in accord with the principles of justice commonly called rules of law. Parties in dispute are to have direct access to this permanent organization. Adequately qualified judges are provided for in Article II. In Article XVI their independence from governmental influences is assured. In addition to being independent persons of high moral character, their competence is assured by the stipulation that they shall be eligible for appointment to the highest judicial offices, jurisconsults of known ability in international law.

Thus it will appear that the framers of this project have based their recommendations upon wisdom. They clearly realized that the success of the court must de-

pend almost entirely upon the character of the judges; hence the provisions that such judges shall be professionally qualified. No league to enforce peace here; no threat of economic blockade and national extinction; no blanket authority to a small group of men to "take any action that may be deemed wise and effective"; no contemplation of "an act of war against the other members of the League." Because it is based upon wisdom the project constitutes the most encouraging single hope since the Armistice of 1918.

Locating the court at The Hague is another evidence of wisdom. The articles of the project, read and approved one by one, were unanimously adopted as a whole July 22, in that fair capital of Holland. Since the Court of Arbitration set up in 1899 is already located at The Hague; since the Academy of International Law and Political Science was organized in 1913 at The Hague and is to be continued there; since the Hague Conferences are to be reconvened unto the advancement of international law, meeting regularly and at stated periods in the same city, it appears peculiarly appropriate that this Permanent Court of International Justice should take its place at the head of the judicial table of the Society of Nations in that sturdy land, sacred to the memory of Hugo Grotius.

### Its American Origin

The project is an American project. Hence it will be an inspiration to every American versed in the history of his own country. We may well recall that the United States of America represents the first union of free, independent, sovereign States—a union which survives and remains adequate to its purpose. Our fruitful experience has taught us that this is true primarily because the judicial power of the United States is "based in one Supreme Court," extending "to controversies be-

tween two or more States." We have already said that this project is but the natural evolution in the realm of world justice. This fact is here quite apparent. Following the example of our Supreme Court, the project for the Permanent Court of International Justice—adopted at The Hague in 1907 in Article XVII of its Convention—provided that "the judicial court of arbitration is competent to deal with all cases submitted to it." The first article under the chapter dealing with the competency of this proposed court, Article XXXI, provides that "the court is competent to deal with cases between States." Thus the evolution is natural and real, especially acceptable to every American.

The court is to have a wide jurisdiction. It can deal with issues relative to the interpretation of treaties, to any points of international law, to matters of fact constituting the violation of an international engagement, to questions of reparation arising from the breach of international obligations, and to the interpretations of all sentences passed by the court. Indeed, by the provisions of Article XXXIV the court is competent to take cognizance of disputes of any kind whatsoever which are submitted to it by a general or special agreement of the parties.

Furthermore, in case of dispute as to whether the differences come within the category defined, "the court shall decide." The court, therefore, is to be a court, not of arbitration, but of justice, the parties being bound to submit to the court within the limits of its jurisdiction. Little by little, as law is provided, the jurisdiction of the court can be enlarged. Thus, at last the way seems about to open before the nations for the realization of that truth phrased by one of the greatest of Americans, "No question is ever settled until it is settled right."

It may be repeated that this is the most significant

thing now before the world. We may well believe that there is to be an endless series of periodic conferences to carry on the work begun at The Hague in 1899, conferences for the promotion and extension of international law. As with our United States, so with the nations, a competent judicial body is essential for the interpretation of that law. The nations, the United States included, will, therefore, welcome this project for a Permanent Court of International Justice. The nations are in the way at last to apply the principles of self-imposed law, whether the methods of settlement be by arbitrators or by magistrates. Mirabeau's day, "when right shall be the sovereign of the world," is nearer at hand. It is, we are firmly convinced, about to break.

## CONCLUSION

The nations may safely pin their faith to some form of an international legislature and of an international judiciary. They may not expect a universal empire, but they may strive for at least this much of an international organization, destined yet, as regards international disputes incapable of adjustment by diplomacy or arbitration, to perfect a juridical union of the civilized nations. It is for such that men are giving their lives to the peace movement. It is for such that the believers in liberalism and democracy, with their principles of life, liberty, equality, fraternity, and happiness, struggle and wait. It is for such that we have peace societies, Hague conferences, institutes of international law, an interparliamentary union, and the longing for some kind of a society of nations. It is by such means, we think, that wars will be made less probable.

The burdens and miseries of the world's military inheritance will be lifted as the collective judgments of human groups become increasingly clear. The perme-

ating principle of life pursues its constructive upward course, and an advancing age must welcome each constructive attempt to supplant with the machinery of law and justice the unnatural and hideous devastations of war.

# APPENDIX

## THE PROPOSED PERMANENT COURT OF INTERNATIONAL JUSTICE

### PROJECT ADOPTED BY JURISTS ADVISORY COMMITTEE AT THE HAGUE; ALSO COVERING LETTER SENT BY THE COUNCIL OF THE LEAGUE TO ALL GOVERNMENTS MEMBERS OF THE LEAGUE

The following project was registered for publication September 15. The next day the Council of the League of Nations gave consideration to the project, and at its meeting at Brussels, in October, it will undoubtedly draft definite and favorable recommendations to the Assembly of the League at its meeting in Geneva, November 15. The important documents which follow will be of special interest to every friend of the American Peace Society.—THE EDITOR.

(The Covering Letter)

LEAGUE OF NATIONS

Permanent Court of International Justice

(21/5970/895.) (20/31/60.

SUNDERLAND HOUSE, CURZON STREET,
LONDON, W. I., *27th August,* 1920.

The Council of the League of Nations has the honor to communicate to the —— Government the scheme presented by the International Committee of eminent jurists who were invited to submit plans for the establishment of a Permanent Court of International Justice, and who have recently concluded their deliberations at The Hague.

The Council do not propose to express any opinion on the merits of the scheme until they have had a full opportunity of considering it, but they permit themselves to accompany the documents with the following observations:

The scheme has been arrived at after prolonged discussion by a most competent tribunal. Its members represented widely different national points of view; they all signed the report. Its fate has therefore been very different from that of the plans for a Court of Arbitral Justice, which were discussed without result in 1907. Doubtless the agreement was not arrived at without difficulty. Variety of opinions, even among the most competent experts, is inevitable on a subject so perplexing and complicated. Some mutual concessions are therefore necessary if the failure of thirteen years ago is not to be repeated. The Council would regard an irreconcilable difference of opinion on the merits of the scheme as an international misfortune of the greatest kind. It would mean that the League was publicly compelled to admit its incapacity to carry out one of the most important of the tasks which it was invited to perform. The failure would be great and probably irreparable; for, if agreement proves impossible under circumstances apparently so favorable, it is hard to see how and when the task of securing it will be successfully resumed.

It is in the spirit indicated by these observations that the Council on their part propose to examine the project submitted to them by the Committee of Jurists, and they trust that in the same spirit the members of the League will deal with this all-important subject when the Council brings the recommendations before the Assembly.

Signed on behalf of the Council of the League of Nations.

——— ———,

*Secretary-General.*

# DRAFT-SCHEME

## For the Institution of the Permanent Court of International Justice

### MENTIONED IN ARTICLE 14 OF THE COVENANT OF THE LEAGUE OF NATIONS

Presented to the Council of the League by the Advisory Committee of Jurists

(Translation)

Article 1

A Permanent Court of International Justice, to which Parties shall have direct access, is hereby established, in accordance with Article 14 of the Covenant of the League of Nations. This Court shall be in addition to the Court of Arbitration organized by The Hague Convention of 1899 and 1907, and to the special Tribunals of Arbitration to which States are always at liberty to submit their disputes for settlement.

CHAPTER I

*Organization of the Court*

Article 2

The Permanent Court of International Justice shall be composed of a body of independent judges, elected regardless of their nationality, from amongst persons of high moral character, who possess the qualifications required, in their respective countries, for appointment to the highest judicial offices, or are jurisconsults of recognised competence in international law.

Article 3

The Court shall consist of 15 members: 11 judges and 4 deputy-judges. The number of judges and deputy-judges may be hereafter increased by the Assembly, upon the proposal of the Council of the League of Nations, to a total of 15 judges and 6 deputy-judges.

Article 4

The members of the Court shall be elected by the Assembly and the Council from a list of persons nominated by the national groups in the Court of Arbitration, in accordance with the following provisions.

Article 5

At least three months before the date of the election, the Secretary-General of the League of Nations shall address a written request to the members of the Court of Arbitration, belonging to the States mentioned in the Annex to the Covenant or to the States which shall have joined the League subsequently, inviting them to undertake, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.

No group may nominate more than two persons; the nominees may be of any nationality.

Article 6

Before making these nominations, each national group is hereby recommended to consult its Highest Court of Justice, its Legal Faculties and Schools of Law, and its National Academies and national sections of International Academies devoted to the study of Law.

Article 7

The Secretary-General of the League of Nations shall prepare a list, in alphabetical order, of all the persons thus nominated. These persons only shall be eligible for appointment, except as provided in Article 12, paragraph 2.

The Secretary-General shall submit this list to the Assembly and to the Council.

Article 8

The Assembly and the Council shall proceed to elect by independent voting first the judges and then the deputy-judges.

Article 9

At every election the electors shall bear in mind that not only should all the persons appointed as members

of the Court possess the qualifications required, but the whole body also should represent the main forms of civilization and the principal legal systems of the world.

Article 10

Those candidates who obtain an absolute majority of votes in the Assembly and the Council shall be considered as elected.

In the event of more than one candidate of the same nationality being elected by the votes of both the Assembly and the Council, the eldest of these only shall be considered as elected.

Article 11

If, after the first sitting held for the purpose of the election, one or more seats remain to be filled, a second and if necessary, a third sitting shall take place.

Article 12

If after the third sitting one or more seats still remain unfilled, a joint Conference consisting of six members, three appointed by the Assembly and three by the Council, may be formed, at any time, at the request of either the Assembly or the Council, for the purpose of choosing one name for each seat still vacant, to submit to the Assembly and the Council for their respective acceptance.

If the Committee is unanimously agreed upon any person who fulfills the required conditions he may be included in its list, even though he was not included in the list of nominations made by the Court of Arbitration.

If the Joint Conference is not successful in procuring an election those members of the Court who have already been appointed, shall, within a time limit to be arranged by the Council, proceed to fill the vacant seats by selection from amongst those candidates who have obtained votes either in the Assembly or in the Council.

In the event of an equality of votes amongst the judges, the eldest judge shall have a casting vote.

Article 13

The members of the Court shall be elected for nine years.

They may be re-elected.

They shall continue to discharge their duties until their places have been filled.

Though replaced, they shall complete any cases which they may have begun.

Article 14

Vacancies which may occur shall be filled by the same method as that laid down for the first election.

A member of the Court elected to replace a member the period of whose appointment has not expired will hold the appointment for the remainder of his predecessor's term.

Article 15

Deputy-judges shall be called upon to sit in the order laid down in a list.

This list shall be prepared by the Court, having regard first to the order in time of each election and secondly to age.

Article 16

The exercise of any function which belongs to the political direction, national or international, of States, by the Members of the Court, during their terms of office is declared incompatible with their judicial duties.

Any doubt upon this point is settled by the decision of the Court.

Article 17

No member of the Court can act as agent, counsel or advocate in any case of an international nature.

No member may participate in the decision of any case in which he has previously taken an active part, as agent, counsel or advocate for one of the contesting parties, or as a member of a national or international Court, or of a Commission of Inquiry, or in any other capacity.

Any doubt upon this point is settled by the decision of the Court.

Article 18

A member of the Court cannot be dismissed unless, in the unanimous opinion of the other Members, he has ceased to fulfill the required conditions.

When this happens a formal notification shall be given to the Secretary-General.

This notification makes the place vacant.

Article 19

The members of the Court when outside their own country, shall enjoy the privileges and immunities of diplomatic representatives.

Article 20

Every member of the Court shall, before taking up his duties, make a solemn declaration in open Court that he will exercise his powers impartially and conscientiously.

Article 21

The Court shall elect its President and Vice-President for three years; they may be re-elected.

It shall appoint its Registrar.

The duties of Registrar of the Court shall not be considered incompatible with those of Secretary-General of the Permanent Court of Arbitration.

Article 22

The seat of the Court shall be established at The Hague.

The President and Registrar shall reside at the seat of the Court.

Article 23

A session shall be held every year.

Unless otherwise provided by rules of Court this session shall begin on the 15th June, and shall continue for so long as may be necessary to complete the cases on the list.

The President may summon an extraordinary meeting of the Court whenever necessary.

Article 24

If, for some special reason, a member of the Court considers that he cannot take part in the decision of a particular case, he shall so inform the President.

If, for some special reason, the President considers

that one of the members of the Court should not sit on a particular case, he shall give notice to the member concerned.

In the event of the President and the member not agreeing as to the course to be adopted in any such case, the matter shall be settled by the decision of the Court.

Article 25

The full Court shall sit except when it is expressly provided otherwise.

If 11 judges cannot be present, deputy-judges shall be called upon to sit, in order to make up this number.

If, however, 11 judges are not available, a quorum of 9 judges shall suffice to constitute the Court.

Article 26

With a view to the speedy despatch of business the Court shall form, annually, a chamber composed of three judges who, at the request of the contesting parties may hear and determine cases by summary procedure.

Article 27

The Court shall frame rules for regulating its procedure. In particular, it shall lay down rules for summary procedure.

Article 28

Judges of the nationality of each contesting party shall retain their right to sit in the case before the Court.

If the Court includes upon the Bench a judge of the nationality of one of the parties only, the other party may select from among the deputy-judges, a judge of its nationality, if there be one. If there should not be one, the party may choose a judge, preferably from among those persons who have been nominated as candidates by some national group in the Court of Arbitration.

If the Court includes upon the Bench no judges of the nationality of the contesting parties, each of these may proceed to select or choose a judge as provided in the preceding paragraph.

Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only.

Judges selected or chosen as laid down in paragraphs 2 and 3 of this article shall fulfil the conditions required by Articles 2, 16, 17, 20, 24 of this Statute. They shall take part in the decision on an equal footing with their colleagues.

Article 29

The judge shall receive an annual salary to be determined by the Assembly of the League of Nations upon the proposal of the Council. This salary must not be decreased during the period of a judge's appointment.

The President shall receive a special grant for his period of office, to be fixed in the same way.

Deputy-judges shall receive a grant, for the actual performance of their duties, to be fixed in the same way.

Traveling expenses incurred in the performance of their duties shall be refunded to judges and deputy-judges who do not reside at the seat of the Court.

Grants due to judges selected or chosen as provided in Article 28 shall be determined in the same way.

The salary of the Registrar shall be decided by the Council upon the proposal of the Court.

A special regulation shall provide for the pensions to which the judges and registrar shall be entitled.

Article 30

The expenses of the Court shall be borne by the League of Nations, in such a manner as shall be decided by the Assembly upon the proposal of the Council.

## Chapter II

## *Competence of the Court*

Article 31

The Court shall have jurisdiction to hear and determinate suits between States.

Article 32

The Court shall be open of right to the States mentioned in the Annex to the Covenant, and to such others as shall subsequently enter the League of Nations.

Other States may have access to it.

The conditions under which the Court shall be open of right or accessible to States which are not Members of the League of Nations shall be determined by the Council, in accordance with Article 17 of the Covenant.

Article 33

When a dispute has arisen between States and it has been found impossible to settle it by diplomatic means, and no agreement has been made to choose another jurisdiction, the party complaining may bring the case before the Court. The Court shall, first of all, decide whether the preceding conditions have been complied with; if so, it shall hear and determine the dispute according to the terms and within the limits of the next Article.

Article 34

Between States which are Members of the League of Nations, the Court shall have jurisdiction (and this without any special convention giving it jurisdiction) to hear and determine cases of a legal nature, concerning:

*a.* The interpretation of a treaty;
*b.* Any question of international law;
*c.* The existence of any fact which, if established, would constitute a breach of an international obligation;
*d.* The nature or extent of reparation to be made for the breach of an international obligation;
*e.* The interpretation of a sentence passed by the Court.

The Court shall also take cognizance of all disputes of any kind which may be submitted to it by a general or particular convention between the parties.

In the event of a dispute as to whether a certain case comes within any of the categories above mentioned, the matter shall be settled by the decision of the Court.

Article 35

The Court shall, within the limits of its jurisdiction as defined in Article 34, apply in the order following:

1. International conventions, whether general or particular, establishing rules expressly recognized by the contesting States;

2. International custom, as evidence of a general practice, which is accepted as law;

3. The general principles of law recognized by civilized nations;

4. Judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

Article 36

The Court shall give an advisory opinion upon any question or dispute of an international nature referred to it by the Council or Assembly.

When the Court shall give an opinion on a question of an international nature which does not refer to any dispute that may have arisen, it shall appoint a special Commission of from three to five members.

When it shall give an opinion upon a question which forms the subject of an existing dispute, it shall do so under the same conditions as if the case had been actually submitted to it for decision.

## Chapter III

*Procedure*

Article 37

The official language of the Court shall be French.

The Court may, at the request of the contesting parties, authorize another language to be used before it.

Article 38

A State desiring to have recourse to the Court shall lodge a written application addressed to the Registrar.

The application shall indicate the subject of the dispute and name the contesting parties.

The Registrar shall forthwith communicate the application to all concerned.

He shall also notify the Members of the League of Nations through the Secretary-General.

Article 39

If the dispute arises out of an act which has already taken place or which is imminent, the Court shall have

the power to suggest, if it considers that circumstances so require, the provisional measures that should be taken to preserve the respective rights of either party.

Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and the Council.

Article 40

The parties shall be represented by agents.

They may have counsel or advocates to plead before the Court.

Article 41

The procedure shall consist of two parts: written and oral.

Article 42

The written proceedings shall consist of the communication to the judges and to the parties of statements of cases, counter-cases and, if necessary, replies; also all papers and documents in support.

These communications shall be made through the Registrar, in the order and within the time fixed by the Court.

A certified copy of every document produced by one party shall be communicated to the other party.

Article 43

The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel and advocates.

For the service of all notices upon persons other than the agents, counsel and advocates, the Court shall apply direct to the Government of the State upon whose territory the notice has to be served.

The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

Article 44

The proceedings shall be under the direction of the President, or in his absence, of the Vice-President; if both are absent, the senior judge shall preside.

Article 45

The hearing in Court shall be public, unless the Court,

at the written request of one of the parties, accompanied by a statement of his reasons, shall otherwise decide.

Article 46

Minutes shall be made at each hearing, and signed by the Registrar and the President.

These minutes shall be the only authentic record.

Article 47

The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

Article 48

The Court may, even before the hearing begins, call upon the agents to produce any document, or to supply to the Court any explanations. Any refusal shall be recorded.

Article 49

The Court may, at any time, entrust any individual, bureau, commission or other body that it may select, with the task of carrying out an inquiry or giving an expert opinion.

Article 50

During the hearing in Court, the judges may put any questions considered by them to be necessary, to the witnesses, agents, experts, advocates or counsel. The agents, advocates and counsel shall have the right to ask, through the President, any questions that the Court considers useful.

Article 51

After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents.

Article 52

Whenever one of the parties shall not appear before the Court, or shall fail to defend his case, the other party may call upon the Court to decide in favor of his claim.

The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance with Articles 33 and 34, but also that the claim is supported by substantial evidence and well founded in fact and law.

Article 53

When the agents, advocates and counsel subject to the control of the Court, have presented all the evidence, and taken all other steps that they consider advisable, the President shall declare the case closed.

The Court shall withdraw to consider the judgment.

The deliberations of the Court shall take place in private and remain secret.

Article 54

All questions shall be decided by a majority of the judges present at the hearing.

In the event of an equality of votes, the President or his deputy shall have a casting vote.

Article 55

The judgment shall state the reasons on which it is based.

It shall contain the names of the judges who have taken part in the decision.

Article 56

If the judgment given does not represent, wholly or in part, the unanimous opinion of the judges, the dissenting judges shall be entitled to have the fact of their dissent or reservations mentioned in it. But the reasons for their dissent or reservations shall not be expressed in the judgment.

Article 57

The judgment shall be signed by the President and by the Registrar. It shall be read in open Court, due notice having been given to the agents.

Article 58

The judgment is final and without appeal. In the event of uncertainty as to the meaning or scope of the

judgment, the Court shall construe it upon the request of any party.

Article 59

An application for revision of a judgment can be made only when it is based upon the discovery of some new fact, of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.

The proceedings for revision will be opened by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

No application for revision may be made after the lapse of five years from the date of the sentence.

Article 60

Should a State consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene as a third party.

It will be for the Court to decide upon this request.

Article 61

Whenever the construction of a convention in which States, other than those concerned in the case, are parties, is in question, the Registrar shall notify all such States forthwith.

Every State so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be as binding upon it as upon the original parties to the dispute.

Article 62

Unless otherwise decided by the Court, each party shall bear its own costs.

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"The next step by which the system of peaceable settlement of international disputes can be advanced, the pathway along which it can be pressed forward to universal acceptance and use, is to substitute for the kind of arbitration we have now, in which the arbitrators proceed according to their ideas of diplomatic obligation, real courts where judges, acting under the sanctity of the judicial oath, pass upon the rights of countries, as judges pass upon the rights of individuals, in accordance with the facts as found and the law as established. With such tribunals, which are continuous, and composed of judges who make it their life business, you will soon develop a bench composed of men who have become familiar with the ways in which the people of every country do their business and do their thinking, and you will have a gradual growth of definite rules, of fixed interpretation, and of established precedents, according to which you may know your case will be decided."—ELIHU ROOT, speaking at the opening meeting of the American Society for Judicial Settlement of International Disputes, 1910.